

## COMPROMISE AND SETTLEMENT BETWEEN THE UNITED STATES AND THE STATE OF ARKANSAS.

FEBRUARY 28, 1895.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. NEILL, from the Committee on the Public Lands, submitted the following

### REPORT:

[To accompany H. R. 8944.]

The Committee on Public Lands, to whom was referred the bill (H. R. 8954) "to approve a compromise and settlement between the United States and the State of Arkansas," have had the same under consideration and report it back with the recommendation that it do pass.

The compromise as agreed upon by the honorable Secretary of the Treasury and the honorable Secretary of the Interior on the part of the United States, and the Honorable James P. Clarke, governor, on the part of the State of Arkansas, is attached hereto, together with the report of the commission appointed by the Secretary of the Treasury and the Secretary of the Interior to investigate and report upon the matters in dispute, all of which is made a part of this report.

CITY OF WASHINGTON,  
*District of Columbia, ss.*

This indenture, made this 23d day of February, 1895, between John G. Carlisle, Secretary of the Treasury, and Hoke Smith, Secretary of the Interior, under the power and authority conferred by an act of Congress approved August 4, 1894, entitled "An act to authorize a compromise and settlement with the State of Arkansas," parties of the first part, and James P. Clarke, governor of the State of Arkansas, acting under the power conferred by the general assembly of the State of Arkansas, approved April 8, 1889, party of the second part, witnesseth:

That for and in consideration of the agreements and acts of the party of the second part, hereinafter more fully set forth, the parties of the first part by these presents hereby make the following agreement, subject to the approval by Congress:

1. To surrender to the party of the second part for cancellation 500 six per cent coupon bonds of \$1,000 each, numbered from 1 to 500, inclusive, dated January 1, 1838, and matured October 26, 1861, issued by the State of Arkansas to secure a loan from the Smithsonian fund, and now held and owned by the United States.

2. To surrender the coupons attached thereto, representing the unpaid accumulated interest on said bonds, amounting to the sum of \$436,303.61.

3. To surrender similar bonds of the State under same date (38 in number) of \$1,000 each, numbered 282 to 294, inclusive, 359 to 373, inclusive, and 401 to 410, inclusive, issued to secure a similar loan from the same fund, and matured January 1, 1868, and now owned by the United States.

4. To surrender the coupons attached thereto, representing the unpaid interest thereon to date of maturity, \$59,280.

5. To surrender three bonds of \$1,000 each, being State of Arkansas 5 per cent registered bonds, acquired for the Chickasaw orphan fund, with interest thereon from date of default to date of maturity, January 1, 1887, \$5,700.

6. To surrender 92 of the 252 new six per cent coupon bonds, \$1,000 each (Nos. 2099 to 2190, inclusive), issued by the State of Arkansas January 1, 1874, under the adjustment of the Chickasaw national fund, and maturing January 1, 1900, and now owned by the United States; also all coupons attached to said bonds, representing the accrued interest to January 1, 1895 (21 years), and amounting to \$115,820.

7. To surrender for cancellation all the unpaid coupons to January 1, 1895, on the remainder of the 252 new six per cent (\$1,000 each) Arkansas bonds, being 160 in number, and numbered from 2191 to 2350, inclusive, issued January 1, 1874, under the adjustment of the Chickasaw national fund, amounting in unpaid interest to \$201,600.

In consideration of the surrender by the parties of the first part to the party of the second part the bonds, coupons, and accumulated amounts of interest herein above set forth, the party of the second part, by virtue of the powers aforesaid conferred upon him, hereby makes the following agreement, conditioned on the approval thereof by Congress, namely:

1. To cause to be paid into the Treasury of the United States the sum of \$572 within thirty days after the approval by Congress of this settlement.

2. To cause to be paid, at or before their maturity (January 1, 1900), the remaining Arkansas bonds, being 160 in number, of \$1,000 each, and all coupons attached thereto, as they severally come due, all coupons on such bonds on January 1, 1895, being surrendered for cancellation, under the terms of this agreement, as above set forth. If the State elects to pay such bonds before their maturity, the payment of all interest accrued thereon to that date shall be accepted in full satisfaction of all the coupons, and the same may be surrendered with the bonds.

3. As a further consideration for the surrender of the aforesaid bonds, coupons, etc., the party of the second part hereby relinquishes and quitclaims to the United States all claims or demands, adjusted or unadjusted, growing out of the act of September 28, 1850, known as the swamp-land act; also, all land or cash indemnity growing out of the acts of March 2, 1855, and March 3, 1857; also, all claims for indemnity school lands; the residue of the salt-spring lands; the residue of the lands under the court-house and jail grant (act June 15, 1832); the residue of lands under act of September 4, 1841, for internal improvements; the residue of the grant under the acts of March 2, 1831, and June 3, 1836, for public buildings, and all other claims or demands of whatever nature or character.

The parties hereto agree that the land now patented, approved, or confirmed to the State of Arkansas under the acts of September 28, 1850, March 2, 1855, and March 3, 1857, shall constitute the full meas-

ure due the State under the said swamp-land acts, except, however, that the lands described in the following lists shall be patented to the State, namely: List No. 1, containing 12,640 acres, denominated "Approved, but not listed;" and list No. 2, containing 4,960 acres, denominated "Confirmed, but not listed," which lists were transmitted to the Secretary of the Interior on November 17, 1894, by letter "M" of the Commissioner of the General Land Office.

It is also agreed that any person who has heretofore filed a declaration of preemption, resides on, cultivates, or has purchased, under the laws of the State of Arkansas, any selected and unconfirmed swamp land hereby relinquished to the United States, his heirs or assigns shall have the preference right for one year from this date to purchase such land from the United States at the minimum price for public lands, under such rules and regulations as may be prescribed by the Secretary of the Interior.

Nothing in this settlement and agreement is intended to or shall in any connection be held to prejudice the right of the State of Arkansas to assert and establish her title to any lands which were granted or confirmed to her by the said acts approved September 28, 1850, March 2, 1855, and March 3, 1857, in so far as the same is disputed by those claiming under any subsequent grant made or claimed to have been made, the scope and purpose of this settlement being hereby declared to be the adjustment of all disputes between the United States and the State of Arkansas, and to leave undisturbed incidental controversies between said State and other parties in which the United States is not beneficially interested.

But it is agreed by the party of the second part that any person who has heretofore entered any such patented, approved, or confirmed swamp lands under the homestead or other law of the United States shall have the preference right for one year, from this date, to purchase such land from the State at the minimum price fixed by law for such land, upon exhibiting to the commissioner of State lands the patent, receiver's receipt, or certificate issued by the United States for such land.

In testimony whereof we have hereunto subscribed our respective names this the day and year first above written.

J. G. CARLISLE,  
*Secretary of the Treasury.*  
HOKE SMITH,  
*Secretary of the Interior.*  
JAMES P. CLARKE,  
*Governor of Arkansas.*

## REPORT OF BURTON T. DOYLE, REPRESENTING THE SECRETARY OF THE TREASURY, AND GEORGE C. ROSS, REPRESENTING THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,  
*Washington, February 18, 1895.*Hon. J. G. CARLISLE,  
*Secretary of the Treasury, and*  
Hon. HOKE SMITH,  
*Secretary of the Interior.*

GENTLEMEN: In pursuance of your respective designation or appointment of us as your representatives or agents under the act of Congress entitled "An act to authorize a compromise and settlement with the State of Arkansas," approved August 4, 1894, we have the honor herewith to submit our report.

We find that the United States now own, in their own right, bonds of the State of Arkansas in the sum of \$793,000, and the interest accrued thereon from the date of default in payment thereof by the State to the maturity of said bonds amounting in the aggregate, bonds and interest, to \$1,611,803.61. (Interest on these bonds is not computed from and after the date of their maturity under the authority of the Attorney-General of the United States. See opinion filed herewith, dated February 14, 1895.) And that the State of Arkansas has various claims against the United States under the public-land laws of the United States for lands and indemnity claimed by her, and never allowed by the United States, which she offers as offset or counterclaim. The claims and counterclaims between the two governments are succinctly set forth in the form of a debit and credit account accompanying this report, marked "Account," in which the claims of the Government are given on the debit side of the account and the allowances conceded on the counterclaims made by the State are shown on the credit side of the account; and we desire to call your attention to this account, and make our report in the form of a narrative explanation of the items in it.

Soon after the admission of the State of Arkansas into the Union the legislature thereof authorized the issue of \$2,000,000 in 6 per cent interest-bearing coupon bonds of that State to run thirty years; and the United States, as the trustee of the Smithsonian fund, invested \$538,000 of that fund in said bonds, getting 538 of such bonds at \$1,000 each. The State of Arkansas defaulted in the payment of the interest on these bonds January 1, 1842; but as the State was entitled under the act of June 23, 1836 (5 Stat. U. S., 58) to 5 per cent of the net proceeds of the sale by Congress of lands lying within its borders, the United States withheld these 5 per cent net earnings under the joint resolution of March 3, 1854 (5 Stat. U. S., 801, carried into the Revised Statutes of the United States as section 3481), to be applied to the liquidation of the interest on these bonds which the State had defaulted in paying. On December 31, 1860, there had been so withheld by the United States \$148,279.72, which the Secretary of the Treasury applied to the redemption of overdue interest coupons on 134 of the 538 bonds of the State held for the Smithsonian fund, which coupons were surrendered as follows: Thirty-seven coupons each from bonds numbered 1 to 133, inclusive, each coupon representing \$30 (4,921 coupons, amounting to \$147,630), which paid the interest on these 133 bonds to January 1, 1860; 21 coupons from bond No. 134 (\$630), which paid the interest on that bond to January 1, 1852, and left \$19.72 over, which remainder



was credited on the next coupon left attached to said bond No. 134. Since that application no moneys so withheld by the United States have been actually applied to the payment of the interest accrued on any of these bonds, leaving accrued interest due on 366 of them from the date of default in payment by the State, January 1, 1842, to the date of their maturity, October 26, 1861; on 38 of them from date of default, January 1, 1842, to January 1, 1868; on 133 of them from the time to which that application paid it, January 1, 1860, to the date of maturity, October 26, 1861; and on 1 of them from the date to which that application paid the interest, January 1, 1852, to the date of maturity, October 26, 1861, less \$19.72 credited on one of the retained coupons, making, in the aggregate, accrued and unpaid interest on these 538 bonds, \$495,583.61; but there has been withheld and not yet applied \$55,116.20, which is entered on the credit side of the account in favor of the State in this adjustment.

The United States, as the trustee of the Chickasaw fund, also invested \$90,000 of that fund in the bonds of the State of this same issue; and the State defaulted in the payment of interest and principal; and the Secretary of the Interior, under the authority of the act of December 13, 1872 (17 Stat. U. S., 397), made an adjustment with the State of Arkansas in 1874, in pursuance of which the State of Arkansas funded these bonds and interest accrued thereon and issued, under date of January 1, 1874, 252 new 6 per cent coupon bonds, maturing January 1, 1900, on which no interest has been paid, leaving unpaid interest accrued and overdue on these 252 new bonds from January 1, 1874, to January 1, 1895, amounting to \$317,520.

The United States also hold three 5 per cent registered bonds of that State purchased out of the Chickasaw orphan fund, with interest accrued thereon from the date of default to the date of maturity, January 1, 1849, to January 1, 1887, amounting to \$5,700, making in all, bonds and interest, the aggregate above named, \$1,611,803.61, which completes the debit side of the account.

#### CREDIT SIDE OF ACCOUNT.

Among other credits insisted on by the State are: 1. Five per cent of 16,676,465.85 acres, being, as alleged, "all the public lands then (1836) undisposed of within her borders," on the ground that the United States promised, on the admission of the State into the Union, "to turn over to the State 5 per cent of the proceeds of all public lands then undisposed of within her borders.

We do not think this contention of the State is tenable. The third section of the act for the admission of the State into the Union (5 Stat., 58) provides for the payment to the State of only "5 per cent of the net proceeds of the sale of lands lying within the State, and which shall be sold by Congress."

The claim, therefore, that the State was promised 5 per cent of the proceeds of "all public lands then undisposed of" is erroneous, for the admission of the State into the Union was upon her express agreement that she "shall never interfere with the primary disposal of the soil within the same by the United States," and we do not think that the agreement to pay to the State 5 per cent of the net proceeds arising from the sale of lands carried with it any obligation, either express or implied, that the United States should not thereafter extend to the citizens of that State the privilege of acquiring free homes upon the public domain within its borders under the beneficent provisions of

the homestead act, or the privilege accorded in the location by warrants and scrip.

Again, to admit the justice of this contention would establish a precedent by which other States, similarly organized, could rightfully claim the same considerations.

2. The State claims cash indemnity "for all lands sold by the United States which rightfully belonged to the State under the swamp-land act."

Independently of the fact that there is no law for the allowance of the claim, so stated, we do not think the precedent made by its allowance a good one, even on a compromise. To carry out the intention of Congress for a "just and equitable" settlement we have submitted for your approval the following credits, upon the basis of certain land claims adjusted and unadjusted.

#### UNADJUSTED CLAIMS.

The unadjusted claims are such as have been made by the State as inuring thereto under the swamp-land act and other acts supplemental thereto. In most cases lists of selections have been filed under the claim that the field notes of the public surveys show that the lands included in these lists were swamp and overflowed within the meaning of the act of September 28, 1850, the State having elected to accept the showing made by the field notes. The United States, not having yet verified the claims of the State as to the showing made by these field notes, is not in a position at this time to dispute their justness.

Lists for land indemnity and cash indemnity under the acts of March 2, 1855, and March 3, 1857, being supplementary to the act of September 28, 1850, have also been filed, the justness of which, for like reasons, we are not prepared to dispute.

An allowance of claims for land indemnity under said acts, as also for school-lands indemnity (hereinafter referred to), gives the State the right ipso facto to select lands of equal acreage from the public domain within the State. In such case the State would have the right to select from the residue of the public lands the most valuable nonmineral lands. From the list aforesaid and other claims for the residue of lands under special acts (below mentioned), the State claims that she has the right to select 132,434.27 acres of land to make up for losses sustained by the State.

The relinquishment of the right to select these lands, leaving the title thereto undisputed in the United States, carries with it an obligation on the part of the United States to give credit to the State for their present actual value. This we have endeavored to do by taking the sworn statements of more than sixty-five reputable people in various parts of the State, all well informed as to the value of Government lands within their respective counties. Many of the affiants were members of the present general assembly. From these statements it is found that the average valuation of the Government lands within the State is \$1.25 per acre, and that the lands subject to selection are worth \$5 per acre. Many of the affiants place the last-named lands at \$10 per acre. The affidavits taken by us accompany this report.

We accordingly recommend the following credits, upon these facts:

1. The sum of \$156,250, being the value of 125,000 acres of land at \$1.25 per acre (Exhibit No. 3) listed and filed by the State as inuring thereto under the act of September 28, 1850, and shown by the Government field notes of the public surveys to be swamp and overflowed within the meaning of said act.

2. The sum of \$452,000, being the value of 90,400 acres of land (Exhibit No. 4) selected and filed as a basis of land indemnity under acts of March 2, 1855, and March 3, 1857, the claim of which is to be relinquished to the United States at \$5 an acre.

4. The sum of \$79,900, being the value of 63,920 acres of land (Exhibit No. 7) claimed to be swamp by the evidences of the field notes, and disposed of by the United States subsequent to the passage of the indemnity acts (*supra*) reclaimed, at \$1.25 per acre.

5. The sum of \$150,000, the same being for 30,000 acres of indemnity school land, at \$5 per acre, to make up for deficiencies to the granted section (16) by reason of fractional townships and natural causes, that is, the existence of rivers, lakes, etc., within the granted section. The basis of this claim is an affidavit (Exhibit No. 9) filed by Thomas G. Riley, agent of the State, showing the reason for the failure to file proper lists. A careful investigation of this claim leads us to believe that it is just. Besides, the State has had only 2,345.37 acres of land of this character heretofore patented. (See also Exhibit No. 8.)

3. The sum of \$148,450, the same being for 118,760 acres of land (Exhibit No. 4), listed and filed upon the showing made in the field notes of the public surveys that the land therein described was swamp and overflowed, and therefore passed to the State by the act of September 28, 1850, and thereafter sold by the United States prior to March 3, 1857, thus using the same as a basis for cash indemnity under the act of March 3, 1857, at \$1.25 per acre.

13. The sum of \$348,544.06, the same being for 278,835,248 acres of swamp lands in place and as a basis of land and cash indemnity at \$1.25 per acre. This sum is made up by the allowance of about one-fourth of the amount claimed by the State through its agent, Thomas G. Riley, who has listed 506,260 acres of lands, the same not yet being filed in the swamp division. Mr. Riley states in his affidavit (see Exhibit No. 10) that he has not yet finished the examination of the field notes of the State and that it is his opinion, from a careful estimate of the amount and character of the lands in the State, the field notes of which he has not yet examined, that there remained, over and above said lists of 506,260 acres, other swamp lands never yet listed or applied for to the amount of 400,000 acres, including about 50,000 acres of what are known as "sunk lands" heavily timbered, and not yet surveyed. This claim of 906,260 acres, not having been formally asked for by filing the lists in the proper division, we are not prepared to admit, as a whole; but, on a careful examination into the merits of the same for the purpose of an equitable adjustment of the whole swamp-land claims of the State, we recommend, as above shown, the allowance of the claim to the extent above mentioned.

#### LAND CLAIMS ADJUSTED AND ADMITTED.

6. The sum of \$8,964.25, the same being for 1,792.85 acres of indemnity school land (Exhibit No. 8) at \$5 per acre, a list of which has been filed and officially reported as "apparently valid."

7. The sum of \$800, the same being for 160 acres of land at \$5 per acre (Exhibit 8, Table 3), being the residue of the grant under the act of June 15, 1832, entitled "Court-house and jail grant."

8. The sum of \$554.85, the same being for 110.97 acres of land at \$5 per acre (Exhibit 8, Table 3), being the residue of the lands granted by the act of September 4, 1841, for internal improvements.

9. The sum of \$31,116.55, being for 6,223.31 acres of land at \$5 per acre (Exhibit 8, Table 3), being the residue of the seminary lands due the State under section 5, act of June 23, 1836.

10. The sum of \$80.05, being for 16.01 acres of land at \$5 per acre (Exhibit 8, Table 3), the same being the residue of lands due the State under the act of March, 2, 1831, for the erection of public buildings.

11. The sum of \$255.65, the same being for 51.13 acres of land at \$5 per acre (Exhibit 8, Table 3), being the residue of land granted under section 4, act of June 30, 1836, for the completion of public buildings.

12. The sum of \$19,200, the same being for 3,840 acres of Salt Spring lands at \$5 per acre (Exhibit 8, Table 3), being six sections not yet certified to the State under section 2 of the act of June 23, 1836.

According to the report of the Commissioner of the General Land Office for the year ending June 30, 1894, there have been patented to the State of Arkansas 7,673,565.16 acres of swamp lands.

Arkansas is one of the States which elected to take its swamp lands upon the evidences contained in the field notes of the public survey. A very large part of the State was surveyed prior to the date of the swamp-land grant (September 28, 1850), and without reference thereto; it results therefrom that the surveys do not always accurately indicate the character of the lands, as do the surveys made subsequent to the date of its passage.

Many of the States have received large sums of cash and land indemnity under the acts of March 2, 1855, and March 3, 1857; these sums were paid under the terms of said acts on satisfactory proof being made by the State that the Government had sold lands which passed to the States under the swamp-land act. Illinois and Iowa have each received over \$500,000 of such indemnity; other States received smaller sums; but Arkansas has never received any amount either of cash or land indemnity under these acts.

This may be in part accounted for on the ground that the sales and locations of swamp lands in Arkansas prior to March 3, 1857, were less than in other States which received generous amounts of cash and land indemnity. Again, the amount of swamp lands certified to the State, while vastly less than the amount asked for, is still greatly in excess of Illinois, Iowa, and other States receiving large indemnity.

Making these credits against the debit side of the account, leaves \$160,572 balance due from the State, which we recommend that the State meet by protecting 160 of her 252 new bonds—\$1,000 each, and paying \$572 within thirty days after the approval of this compromise; and we have prepared and herewith submit an agreement carrying into effect the provisions of this compromise, when duly signed by you and the governor of Arkansas and approved by Congress.

We have faithfully endeavored to arrive at a just and equitable settlement of the long-standing differences between the United States and the State of Arkansas. The time at our disposal was necessarily limited, but we believe the foregoing explanations will serve to make clear the basis of the proposed settlement.

Respectfully submitted.

BURTON T. DOYLE,  
*Representing the Secretary of the Treasury.*

GEO. C. ROSS,  
*Representing the Secretary of the Interior.*

Approved:

J. G. CARLISLE, *Secretary of the Treasury.*  
HOKE SMITH, *Secretary of the Interior.*

## ACCOUNT.

*The State of Arkansas in account with the United States on account of bonds issued by the State, with the interest accrued thereon, the claims of the State arising under the public-land laws of the United States, and the claim of the State for care of military prisoners, adjusted to January 1, 1895.*

Dr.	Cr.
<p>(1) To State of Arkansas 6 per cent bonds (Nos. 1 to 500, inclusive), \$1,000 each, issued Jan. 1, 1838, and matured Oct. 26, 1861, to secure a loan from the Smithsonian fund, held in trust by the United States, which bonds were subsequently acquired by the United States in their own right.....</p> <p>(2) To interest on 366 of these bonds (Nos. 135-500), at 6 per cent per annum, from July 1, 1842, to Oct. 26, 1861 (19 years 9 months and 25 days).....</p> <p>(3) To interest on 133 of these bonds (1 to 133), at 6 per cent per annum, from July 1, 1860, to Oct. 26, 1861 (1 year 3 months and 25 days).....</p> <p>(4) To interest on one of these bonds (No. 134) at 6 per cent per annum, from July 1, 1852, to Oct. 26, 1861 (9 years 3 months and 25 days), less \$19.72, paid on one coupon in 1860.....</p> <p>(5) To State of Arkansas bonds (6 per cent coupons) of \$1,000 each, 38 in number (Nos. 282-294, 359-373, 401-410), issued Jan. 1, 1838, to secure a loan from the Smithsonian fund, which bonds matured Jan. 1, 1868, and now belong to the United States.....</p> <p>(6) To interest thereon, at 6 per cent per annum, from Jan. 1, 1842, to Jan. 1, 1868 (26 years).....</p> <p>(7) To three, \$1,000 each, State of Arkansas 5 per cent registered bonds, acquired for the Chickasaw orphan fund by investing the proceeds arising from the sale of two quarter sections of land in the case of Hiram R. Pitchlynn, pursuant to article 8 of treaty stipulations with the Chickasaw Indians, which bonds now belong to the United States.....</p> <p>(8) To interest on these bonds, at 5 per cent per annum, from Jan. 1, 1849, to date of maturity, Jan. 1, 1887 (38 years).....</p> <p>(9) To 252 new 6 per cent coupon bonds of \$1,000 each, issued by that State under the adjustment of the Chickasaw national fund on Jan. 1, 1874, in which it was agreed that the 90, \$1,000 each, 6 per cent coupon bonds of that State, originally purchased out of that fund, together with the accrued and unpaid interest thereon, should be funded after crediting the State with \$7,677.80 on account of care of military prisoners, and these 252 new 6 per cent coupon bonds issued in payment of old bonds and interest.....</p> <p>(10) To accrued and unpaid interest on these bonds from date of issue, Jan. 1, 1874, to date of this settlement, Jan. 1, 1895, at 6 per cent per annum, being \$252,000, at 6 per cent, for 21 years.....</p>	<p>By amounts accrued to the credit of the State under section 3 of the act of June 23, 1836 (5 Stat. U. S., 58), from July 1, 1836, to Jan. 1, 1895, withheld by the United States (for which no interest coupons on the bonds held against the State have been surrendered), now applied as follows (Exhibit A):</p> <p>On bonds acquired through the Smithsonian fund.....</p> <p>On bonds acquired through the Chickasaw national fund.....</p> <p>On bonds acquired through the Chickasaw orphan fund.....</p> <p>(1) By 125,000 acres of land (Exhibit 3) claimed as swamp land in place, filed under act of Sept. 28, 1850 (9 Stat. U. S., 519), reclaimed to the United States by this settlement at \$1.25 per acre.....</p> <p>(2) By 90,400 acres of land (Exhibit 4) selected and filed as a basis of land indemnity, under acts of Mar. 2, 1855 (10 Stat. U. S., 634), and Mar. 3, 1857 (supra), reclaimed to the United States by this settlement at \$5 per acre.....</p> <p>(3) By 118,760 acres of land (Exhibit 4), claimed as a basis of cash indemnity, under act of Mar. 3, 1857 (supra), reclaimed to the United States by this settlement at \$1.25 per acre.....</p> <p>(4) By 63,920 acres of land (Exhibit 7), claimed to be swamp under the indemnity acts above named, which have been listed and filed by the State and disposed of by the United States subsequent to the passage of said indemnity acts; now reclaimed to the United States by this settlement at \$1.25 per acre.....</p> <p>(5) By 30,000 acres of land (Exhibit 9) listed by the agent of the State, Thomas G. Riley, as indemnity school lands, and sent to the governor of the State for amendment to comply with certain departmental regulations as to certificates of nonmineral character and not yet adjusted. These selections are believed to be a valid claim, and the lands are reclaimed to the United States by this settlement at \$5 per acre.....</p> <p>(6) By 1,792.85 acres of indemnity school land (Exhibit 8, Table 3), a list of which has been filed and officially reported as "apparently valid," which are reclaimed by this settlement at \$5 per acre.....</p> <p>(7) By 160 acres of land (Exhibit 8, Table 3), being the residue of the grant under act of June 15, 1832 (4 Stat. U. S., 531), entitled "Court-house and jail grant;" reclaimed by this settlement at \$5 per acre.....</p> <p>(8) By 110.97 acres of land (Exhibit 8, Table 3), granted under act of Sept. 4, 1841 (5 Stat. U. S., 453) for internal improvements; reclaimed by this settlement at \$5 per acre.....</p> <p>(9) By 6,223.31 acres of seminary lands (Exhibit 8, Table 3), due the State under section 5, act June 23, 1836; reclaimed by this settlement at \$5 per acre.....</p>
<p>\$500,000.00</p> <p>425,235.00</p> <p>10,529.17</p> <p>539.44</p> <p>38,000.00</p> <p>59,280.00</p> <p>3,000.00</p> <p>5,700.00</p> <p>252,000.00</p> <p>317,520.00</p>	<p>\$12,822.59</p> <p>40,493.61</p> <p>1,800.00</p> <p>156,250.00</p> <p>452,000.00</p> <p>148,450.00</p> <p>79,900.00</p> <p>150,000.00</p> <p>8,964.25</p> <p>800.00</p> <p>554.85</p> <p>31,116.65</p>



*The State of Arkansas in account with the United States on account of bonds issued by the State, with the interest accrued thereon, etc.—Continued.*

DR.			CR.
		(10) By 16.01 acres of land (Exhibit 8, Table 3) granted under the act of Mar. 2, 1831 (4 Stat. U. S., 473), for the erection of public building at the seat of government; reclaimed at \$5 per acre....	\$80.05
		(11) By 51.13 acres of land (Exhibit 8, Table 3) granted under section 4, act June 30, 1836, being the residue of five sections granted under that act for the completion of public buildings; reclaimed at \$5 per acre.....	255.65
		(12) By 3,840 acres of salt-spring land (Exhibit 8, Table 3), being six sections not yet certified to the State under section 2, act of June 23, 1836; reclaimed to the United States by this settlement at \$5 per acre.....	19,200.00
		(13) By 278,835.248 acres of land, being about one-fourth of 906,260 acres, claimed as swamp land in place and as a basis of land and cash indemnity, under acts of Mar. 2, 1855, and Mar. 3, 1857, at \$1.25 per acre, in satisfaction of the whole claim.....	348,544.06
		(14) Leaving 160 of the 252 new 6 per cent coupon bonds of \$1,000 each to be protected by the State and redeemed at maturity, Jan. 1, 1900 .....	160,000.00
		(15) Leaving a balance, which the State is to pay in cash within thirty days, of .....	572.00
Total amount of bonds and interest.....	\$1,611,803.61	Total credits, bonds, and cash .....	1,611,803.61

## VIEWS OF THE MINORITY.

We, the undersigned, members of the Committee on the Public Lands, feel constrained to dissent from the report of the majority of the committee on the bill H. R. 8944. We regret to do this, because we have not had an opportunity nor the time to give the matter such an examination as its importance demands. More than \$2,000,000 are involved in the settlement, including the interest, and it requires an investigation of the transactions between the State and General Government from the time of the admission of the State into the Union. It would seem that as important a matter as this should be examined with due care by the committee. Congress only authorized a conditional settlement, which should have no binding effect until approved by Congress.

This reservation was put in the act in order that the proper committees and Congress might give the transaction a suitable and full examination. We have had no time to do this, as the matter was first heard in the committee on the 27th of February, 1895, with only three days remaining of the session of Congress; but from a report of the Secretary of the Treasury and of the Secretary of the Interior and the accompanying statement of certain experts, it does seem to us that the settlement is not a just one to the General Government.

The Government held the bonds of Arkansas for large amounts. These bonds were held as trust funds, and must be made good by the United States. In making this settlement the interest is computed upon the bonds only to the date of maturity. A very large number of them matured in 1861. The settlement gives away thirty-four years' interest on these obligations. Under this contract these bonds are to be treated as paid because of the fact that the United States Government has sold land, claimed to be swamp lands, which sales were made many years ago, at the Government price of \$1.25 per acre, and a large part was given to settlers as homesteads for nothing. The contract assumes that the State is now entitled to select other public lands in lieu thereof, and that the said lands should now be worth \$5 per acre. Thus, by stopping the interest on the bonds and computing that the value of the lands have increased fourfold the rights of the Government have been cut off both ways.

The report shows that 7,673,565.16 acres of swamp land have all been patented to the State, amounting to nearly 12,000 square miles. The enormous quantity of lands thus patented as swamp lands would indicate that Arkansas has not been unjustly dealt with in the certification of such lands, but owing to the shortness of the time given to consider the matter it is impossible for us to examine the question from the records. The State claims that there are 906,260 acres of additional swamp land listed and unlisted. This claim is lumped off at 278,835 acres at \$1.25 cents per acre. We are not prepared to say that a careful examination of the whole matter might not show that the settlement in some respects would be equitable in view of circumstances not brought to the notice of the committee, but in the light of what has been shown to the committee the settlement is certainly a one-sided affair, in which the interests of the General Government have not been suitably guarded.

This matter has been pending for twenty-five years. The settlement only gives the Government \$572 in money, and allows it to retain

\$160,000 of the bonds it now holds against the State. No great harm could befall the State if a settlement of this kind should be left open long enough, so that it might be fully examined by committees and Congress. The act authorizing settlement was only tentative, intended as giving facts and figures, from which Congress might act. Burton T. Doyle and George C. Ross, experts, seem also to have been very much hurried in making their examinations, and they state in the report that the "time at our disposal was necessarily limited." The committee did not even have an opportunity to confer with these experts. This may be readily understood when we observe that the contract we are asked to railroad through in the expiring hours of the session was only executed on the 23d day of February, 1895.

There should be no disposition to hasten this matter to final action, without at least reasonably fair consideration by the committee, which has not been able to give the matter such consideration. It was referred to a subcommittee, but the subcommittee did not have time to make any examination of the matter or make a report. There is another feature in the contract that is somewhat singular, and will no doubt result in a demand of additional legislation in favor of other States. The contract assumes that the sixteenth sections of land given for school purposes have fallen short on account of ponds and streams to the amount estimated roughly at 30,000 acres. This is credited at \$5 instead of \$1.25 an acre. We are not referred to any precedent for thus estimating shortages in these sixteenth-section grants. The seminary matter of 6,223 acres and the Salt Springs item of 3,840 acres, both credited at \$5 per acre, have not been explained, and are not understood by the committee.

If the Government buys back these lands at \$5 per acre from the State, they will be immediately opened to homestead settlements and given away to settlers. If these lands were improperly sold they certainly ought not to be allowed at more than the Government price of \$1.25 an acre.

Mr. McRae made the report on H. R. 4903, upon which this settlement is based, December 20, 1893. He uses the following language:

From the statement of the Commissioner of the General Land Office it appears that the United States have sold 200,750 acres of such land for the sum of \$196,990, and disposed of, for land warrants, scrip, and homestead, 162,080 acres, worth, at \$1.25 per acre, the sum of \$202,600. The State claims that she should be credited with the sums so received, as of the years in which the sales were made and allowed \$1.25 per acre for such lands as were otherwise disposed of, making a total claim on this account of \$399,590.

From this it appears that the State only claimed \$1.25 an acre then, instead of \$5 an acre as allowed by the Secretary of the Treasury and Secretary of the Interior.

The agreement also is faulty in this, that it may subject the Government to the necessity of making good the titles of land held by third parties which the State reserves the right to assail in the courts. Purchasers of these lands may be subjected to much annoyance, litigation, and loss by reason of this provision of the contract.

The settlement reserves the rights of the State to attack the titles of settlers and purchasers of these lands, as will be seen from the following paragraph in the agreement:

Nothing in this settlement and agreement is intended to or shall in any connection be held to prejudice the right of the State of Arkansas to assert and establish her title to any lands which were granted or confirmed to her by the said acts approved September 28, 1850, March 2, 1855, and March 3, 1857, in so far as the same is disputed by those claiming under any subsequent grant made or claimed to have been made,

the scope and purpose of this settlement being hereby declared to be the adjustment of all disputes between the United States and the State of Arkansas, and to leave undisturbed incidental controversies between said State and other parties in which the United States is not beneficially interested.

As to the opinion of the Attorney-General, holding that interest ceases at maturity, no copy was presented to the committee and we do not know on what grounds he bases it.

Certainly if no interest on the bonds is to be allowed, the Government should not be compelled to pay \$5 an acre for land which it gave to homesteaders or sold only at \$1.25 an acre.

No action on this bill should be taken without at least reasonable consideration, which is impossible at this late day in the session.

JOHN F. LACEY.  
G. D. MEIKLEJOHN.  
J. W. MOON.  
JOHN DAVIS.  
IRVING P. WANGER.  
W. R. ELLIS.

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DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, D. C., November 17, 1894.*

SIR: I have the honor to acknowledge the receipt of your letter of 6th ultimo requesting a "statement of the several claims of the State of Arkansas, now of record and remaining unadjusted," with view to compromise and settlement under act approved August 4, 1894.

In response thereto I herewith transmit statements showing the status of the several claims, adjusted and unadjusted, in favor of said State of Arkansas, as follows:

*Five per cent fund account.*—There has accrued to the State of Arkansas from July 1, 1836, to June 30, 1893, the sum of \$264,553.70 on account of the 5 per cent of the net proceeds of the sales of public land, of which amount the State has been paid \$59,770.84 for making canals and roads, \$162,902.31 retained by the United States to pay interest on State bonds held in trust for the benefit of the Smithsonian Institution, \$40,080.55 to pay interest on bonds held in trust for benefit of Chickasaw Indians, and \$1,800 withheld for benefit of Chickasaw orphans, making a total of—

Amount paid the State.....	\$59,770.84
Amount withheld by United States.....	204,782.86

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264,553.70

as fully set forth in exhibit marked A.

There is due the State of Arkansas the sum of \$325.74 on account of 5 per cent of net proceeds of sales of public lands during the fiscal year 1894, statement of which was sent to Treasury Department on 14th instant.

I would respectfully call attention to the adjustment of the account between the United States and the State of Arkansas, made July 1, 1881 (Report No. 32485), for the 5 per cent of the net proceeds of sales of public land from January 1, 1862, to June 30, 1880, which shows a balance due said State of \$485.41.

In said adjustment the entire expenses of local land offices amounting to \$75,744.96, together with repayments of purchase money for land erroneously sold and fees and commissions erroneously paid, amounting to \$13,823.28 during that period of over eighteen years, were deducted from total cash sales, whereas under the method of adjusting such accounts, which has prevailed since that date (July 1, 1881), of prorating the expenses between total cash sales and total receipts from fees and commissions, the State would be entitled to some \$2,000 or \$2,500 more than found to be due by the above-mentioned report No. 32485.

*Distribution act, September 4, 1841.*—There was found to be due the State of Arkansas under this act the sums of \$4,482.79 and \$529.37, making a total of \$5,012.16, which amount was withheld by the United States and applied in part payment of interest on \$538,000 6-per cent State bonds held in trust by the Treasurer of the United States for the Smithsonian Institution.

*Railroad grants.*—The only grants by Congress to the State of Arkansas this office is charged with the administration of are the grants of lands to aid in the construc-

tion of the railroads now known as the St. Louis, Iron Mountain and Southern, the Little Rock and Memphis, and the Little Rock and Fort Smith railroads.

These grants were made by the act of February 9, 1853 (10 Stat., 159), and were revived and extended by the act of July 28, 1866 (14 Stat., 1866). The State conferred said grants upon three different corporations organized under its laws, for the purpose of securing the construction of the roads.

The roads were completed within the time prescribed by the law and the lands granted were thus earned; and it has always been the practice of this office, with the approval of the Department, to certify said lands to the State for the benefit of the company earning them. The companies to which the State transferred the grant are the beneficiaries, and the State is simply the trustee, deriving no benefit from the grants other than that resulting from the increased facilities for transportation.

The act of July 28, 1866, which revived and extended the grant of 1853, expressly declared that "all the lands therein granted which reverted to the United States under the provisions of said act, be, and the same are hereby, restored to the same custody, control, and condition, and made subject to the uses and trusts in all respects as they were before and at the time such reversion took effect." The State, therefore, has no pecuniary interest in the lands granted to aid in the construction of these roads.

The grant for the Little Rock and Fort Smith road was reported by this office to the Department on November 12, 1889, as finally adjusted, but the Department has not yet passed upon the matter. The two remaining grants have not been finally adjusted.

*Grants in aid of education and for other purposes.*—Statement showing the status of the claim of the State of Arkansas, under its State grants, remaining unsettled on November 8, 1894.

In regard the grant for internal improvements, the Commissioner's Report for the fiscal year 1850-51, page 8, shows the status of the grant at that time to have been as follows:

	Acres.
Amount granted .....	500,000.00
Amount approved.....	499,889.03
Deficit.....	110.97

In regard to the seminary grant, by letter to Paul M. Cobb, commissioner of State lands, dated February 28, 1885, vol. 22, press copy, p. 103, it was stated that the State was still entitled to select an amount not exceeding 6,223.31 acres in satisfaction of said grant. It does not appear that any selections have been made in view of the above statement, and it is probable that the State is still entitled to the above amount under the grant for a seminary.

To verify these statements from the records would, I should say, take the time of an expert accountant for two or three weeks, the records being so faulty.

In regard to the amount of lieu land (sections 16) disposed of by the United States, the only way of ascertaining that fact would be to go through all the tract books, examine the 16th sections for any entries that may be shown, and also as to whether the State has selected indemnity for such entries, should any be found. This would be a work of weeks if not months.

There is one list of school indemnity selections by the State of Arkansas on file, remaining unadjusted, embracing in the aggregate 2,074.55 acres, which appears to be valid and free from objection, except as to 280 acres, in which the basis has already been satisfied.

Considering the deficit in the internal improvement grant of 110.97 acres, deficit in the seminary grant 6,223.31 acres, and the unadjusted list of school indemnity selections 2,074.55 acres, the entire amount which the records show the State may claim under the several grants is 8,408.83 acres.

In the absence of a specific statement showing what is claimed by the State the above is the best statement that can be made without a full review of all the selections under each grant made since the admission of the State into the Union in 1836.

*Claim under the swamp-land laws.*—By the swamp-land grant of September 28, 1850 (9 U. S. Stat., 519), all the swamp lands then existing and not already disposed of in Arkansas were granted to the said State. The quantity granted is indefinite, since no other designation of the lands was given in the law than "swamp and overflowed lands."

By the confirmatory act of March 3, 1857 (11 U. S. Stat., 251), the claim to all lands reported on that date to the General Land Office, under the swamp-land grant, was confirmed to the State as swamp lands, whether they were of such character or not.

By the indemnity sections of the acts of March 2, 1855 (10 U. S. Stat., 634), and March 3, 1857 (11 U. S. Stat., 251), the State was granted cash and land indemnity in



lieu of swamp lands granted, but sold to individuals up to the date of the passage of the said acts. No indemnity is authorized by law for swamp lands sold by the United States after the date of the passage of the confirmatory act of March 3, 1857.

There has been selected or claimed for or by the State under the swamp-land grant 8,656,372.39 acres, and of this quantity 7,673,565.16 acres have been patented as swamp lands. (Report of Commissioner General Land Office for 1894.)

There remains unsettled on the selection records of the division of swamp lands of this office a claim representing about 626,160 acres, as shown by a tabulated statement, with descriptive exhibits corresponding with the columns in the statement herewith submitted.

Exhibit No. 1 shows the lands approved to the State and which might be patented at this time but for the passage of the act approved August 4, 1894, entitled "An act to authorize a compromise and settlement with the State of Arkansas."

Exhibit No. 2 shows lands reported to the General Land Office prior to March 3, 1857, and which are, therefore, confirmed to the State. But for the act of August 4, 1894, these lands might be approved and patented.

Exhibit No. 3 shows lands reported or selected subsequent to March 3, 1857, and which are subject to adjustment. The claim of the State to a number of the tracts is in conflict with the claims of individuals, who contest the allegation that the lands are swamp lands in fact. The claim of the State to other tracts is not contested. The material question as to whether these lands are swamp lands or not has not as yet been determined.

Exhibit No. 4 shows lands disposed of to individuals, under locations made under the general land laws, between the dates of September 28, 1850, and March 3, 1857. If due proof is made by the State that the lands were in fact swamp lands at the date of the grant, the State will receive certificates authorizing it to locate an equal acreage of agricultural lands in lieu of the swamp land proved to have been lost.

The exhibit also shows the claim of the State for cash indemnity, where the lands were entered by individuals under cash purchases.

Exhibit No. 5 shows lands to which the State can assert no legitimate claim, since the lands had already been disposed of at the date of the grant and were, therefore, excepted from the provisions of the grant. But for the suspension of settlements by reason of the act of August 4, 1894, the improper claim of record might be rejected.

Exhibit No. 6 shows lands claimed by the State as swamp lands, and by railroads, claiming under the State, as nonswamp lands. Having been approved and certified to the State under one grant it can not properly assert a claim to the same lands under another grant. (See *State of Arkansas v. St. Louis, Iron Mountain and Southern Rwy. Co.*, 10 L. D. 165.) The claim of the State on the basis of these lands might also be rejected but for the act of August 4, 1894.

Exhibit No. 7 shows lands the title to which passed to individuals subsequent to the indemnity period. The lands being patented to individuals they can not be also patented to the State; and having been sold after the indemnity period they can not under the law be made the subject of an indemnity claim. Hence they are classified as "unadjustable," under existing laws.

Very respectfully,

S. W. LAMOREUX, *Commissioner.*

The SECRETARY OF THE INTERIOR.

#### DISTRICT OF COLUMBIA, *Washington, D. C.*, 88:

Thomas G. Riley, on his oath, being duly sworn, makes the following statement:

I was appointed by the governor of the State of Arkansas in February, 1886, to look after the interests of the State of Arkansas growing out of the swamp-land act of September 28, 1850, and was afterwards directed to look after the claim of said State for indemnity school lands.

Since the date of my appointment I have continuously resided in Washington, D. C., and have had, through the courtesy of the several Commissioners of the General Land Office, access to the tract books of the General Land Office.

To carry out the purposes of my designation as the agent of the State, I have examined said books with a view to determine the amount of cash indemnity and land indemnity due the State under the act of March 3, 1857; also to ascertain from the field notes the residue of swamp lands in place due the State under the act of September 28, 1850.

In addition to these duties as agent of said State I have ascertained the amount of school indemnity due the State by reason of the losses in the granted section (16) on account of fractional townships, and other losses to said section growing out of natural causes, i. e., the existence of rivers, lakes, etc., the meandering of which by the public survey lessened to that extent the amount of school lands allowed by law.

## 16 SETTLEMENT BETWEEN UNITED STATES AND ARKANSAS.

I have filed but one list for indemnity school lands, that of December 10, 1890, for 2,073.85 acres, of which amount 1,792.85 acres are held to be "apparently valid," though not yet approved.

In addition to this list I have prepared, since the year 1890, four other lists of indemnity school lands from bases above described. I am positive the bases of these selections were valid. I took these lists to Division "K" of the General Land Office for the purpose of filing, but was there advised that they could not be accepted by reason of an informality—namely, there were no nonmineral affidavits accompanying said lists. These lists were then returned to the governor of Arkansas for the purpose of securing the requisite affidavits. The lists have not yet been returned for filing. The lands selected in these four lists amounted to 30,000 acres, and the bases for the selections were valid.

THOMAS G. RILEY.

Sworn to and subscribed before me this 16th day of January, 1895.

[SEAL.]

WM. H. DE LACY, *Notary Public*.

DISTRICT OF COLUMBIA, *Washington, D. C.*, ss:

Thomas G. Riley, on oath, being duly sworn, makes the following statement:

That he was appointed by the governor of Arkansas, in March, 1886, to examine the records, files, tract books, and plat books of the General Land Office for the purpose of determining therefrom the amount of swamp lands in place due the State under the act of September 28, 1850; also the indemnity due the State under the acts of March 2, 1855, and March 3, 1857; that in pursuance of these duties he has from time to time filed various lists, which have been in part acted upon by the Commissioner of the General Land Office.

That he has prepared lists embracing 506,000 acres of land not heretofore selected, and which have not been, but are now ready to be, filed in the General Land Office; that from a careful and painstaking examination of the field notes of survey, for each 40-acre tract embraced in said lists, he believes that the greater portion of each 40-acre tract included in said list is swamp and overflowed land within the meaning of the swamp-land act.

That he believes the State entitled to all said lands or indemnity therefor.

That he has not yet finished the examination of the field notes of the State, and it is his opinion, from a careful estimate of the amount and character of the lands in the State, the field notes of which he has not yet examined, that there remains over and above said lists of 506,000 acres, other swamp lands to the amount of 400,000 acres. This will include about 50,000 acres of what are known as "sunk lands," heavily timbered and not yet surveyed.

THOS. G. RILEY.

Sworn to and subscribed before me this 15th day of February, 1895.

[SEAL.]

WM. H. DE LACY, *Notary Public*.